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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,483	09/30/2003	Paul Athony Rhea	60046.0023US01	5998
23552	7590	05/06/2005	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			BUI, BRYAN	
		ART UNIT		PAPER NUMBER
		2863		
DATE MAILED: 05/06/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/675,483	RHEA ET AL.	
	Examiner Bryan Bui	Art Unit 2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 April 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4 and 7-18 is/are rejected.
- 7) Claim(s) 5-6, 19-20 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

1. Applicant's papers filed on 4/01/2005 have been received and entered. Claim 16 has been amended. Claims 1-20 are pending in the application.
2. Applicant's remarks have been considered, but it is not persuasive.

### *Claim Objections.*

3. Claims 1, 9, and 16 are objected to because of the following informalities: the intended use of term "capable of" recites in claim 1, line 2; claim 9, line 2; claim 16, line 4 should be removed. Claim invention must be positive and concise. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 7-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Orr (US 6,189,114).

With respect to claims 1-4, 7, 8 and 16, 17, 18, Orr teaches a system and method provides remote diagnostics testing of a data processing system for testing the function of a component of the system comprising a client computer (data processing system) operative to receive a user request to perform a diagnostic on the component (column 3, lines 8-10), to retrieve (run list) a diagnostics module capable of testing the component from a remote server computer and to execute the diagnostics module to

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test for a failure or potential failure of the component (column 3, lines 10-19); and a server computer (server system 40) operative to store the diagnostic module, to receive requests from the client computer for diagnostics module, and to transmit the diagnostics module to the client computer in response to a request (column 5, lines 14-47).

With respect to claim 9, 14, 15, Orr teaches a method for locating, retrieving, installing, and executing a diagnostics module capable of testing a component of a computer system comprising receiving a user request to perform a diagnostic on the component (column 3, lines 8-10); in response to the request, locating (defining from diagnostic code 68) and retrieving a diagnostic module capable of testing the component from a remote server computer and executing the diagnostics module to test for a failure or potential failure of the component (column 5, lines 14-47). The step of installing a diagnostics module on the computer system is inherently known in the art because a diagnostic program (64) in flash ROM (50) to perform diagnostic testing having diagnostics code (68) is installed in computer system (column 5, lines 32-47, figure 2).

With respect to claims 10-13, Orr teaches the claimed invention as set forth in claim 9 above, Orr further teach the control object is embedded in the web page and the control object is operative to communicate with the server computer to locate and retrieve the diagnostics module and executing the diagnostics modules (figure 1, column 4, lines 38-65 and column 5, lines 32-47).

***Allowable Subject Matter***

6. Claims 5-6 and 19-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

7. Applicant's arguments filed on 4/01/2005 have been fully considered but they are not persuasive.

During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." "Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969). While the meaning of claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allowed. This means that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification. *In re Zletz*, 893 F. 2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

In response to applicant's argument that the references (Orr), the diagnostics modules are not received from a remote server computer, rather the diagnostics modules have been previously stored in the computer system to be tested.

Examiner's position is that Orr discloses the diagnostics modules are received from a remote server (column 3, lines 8-19, column 5, lines 14-47). Further, the diagnostic modules stored in the server computer are definitely indicated in the current application in order to retrieving by the client (data processing system). In the computer network, the client obtains the diagnostic modules that executed on the server (40) which include the diagnostic program (64) to performs diagnostic testing are inherently known as the retrieving (Microsoft press computer Dictionary, third Edition).

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan Bui whose telephone number is 571-272-2271. The examiner can normally be reached on M-Th from 7am-4pm, and Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Barlow can be reached on 571-272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BB

5/4/2005

BRYAN BUI  
PRIMARY EXAMINER

